

## Office of the Secretary of Defense

Components. The benefits to the DoD Components and the private sector organizations are the primary considerations in initiating assignments; not the desires or personal needs of an individual employee.

### § 241.2 Definitions.

In this part:

*Assignment* means the detail of a DoD employee to a private sector organization without a change of position; or the assignment of a private sector employee to a DoD Component without a change of position.

*DoD employee* means a Federal civilian employee of the DoD.

*Exceptional employee* for the purposes of this pilot means an employee who demonstrates unusually good performance which is consistently better than expected at the fully successful level or above. Performance meets or exceeds all standards established at the fully successful level or above and makes significant contributions towards achieving the organizational goals.

*Information technology (IT)* as defined in section 11101 of title 40, U.S.C. includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources.

*Information Technology Management (ITM)* means the planning, organizing, staffing, directing, integrating, or controlling of information technology, including occupational specialty areas such as systems administration, IT project management, network services, operating systems, software application, cybersecurity, enterprise architecture, policy and planning, internet/web services, customer support, data management and systems analysis.

*Private sector organization* means non-public or commercial individuals and businesses, nonprofit organizations, academia, scholastic institutions, and nongovernmental organizations.

*Small business concern* means a business concern that satisfies the definitions and standards by the Adminis-

trator of the Small Business Administration (SBA) as defined by section 3703 (e)(2)(A) of title 5, U.S.C.

### § 241.3 Assignment authority.

The Secretary of Defense may with the agreement, of the private sector organization concerned, arrange for the temporary assignment of an employee to such a private sector organization or from such a private sector organization to a DoD Component.

### § 241.4 Eligibility.

(a) To be eligible for an ITEP assignment, a DoD or private sector employee must:

(1) Work in the field of information technology management;

(2) Be considered an exceptional employee;

(3) Be expected to assume increased information technology management responsibilities in the future; and

(4) Must be compensated at the GS-11 level or above (or the equivalent).

(b) In addition to meeting the requirements of paragraph (a) of this section, the DoD employee must be serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service.

(c) The private sector employee must meet citizenship requirements for Federal employment in accordance with 5 CFR 7.3 and 338.101, as well as any other statutory requirements. When a position requires a security clearance, the person must possess, or be able to obtain an appropriate security clearance.

(d) Proposed assignment meets applicable requirements of section 209(b) of the E-Government Act of 2002.

### § 241.5 Written agreements.

(a) Before an assignment begins, the head of the DoD Component, private sector organization and the employee to be assigned to ITEP must sign a three-party agreement. Prior to the agreement being signed the relevant legal office for the DoD Component shall review and approve the agreement. The agreement must include, but is not limited to the following elements:

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(1) The duties to be performed and length of assignment;

(2) An individual development plan describing the core IT competencies and technical skills that the detailee will be expected to enhance or acquire;

(3) Identification of the supervisor of detailee.

(b) The agreement shall require DoD employees, upon completion of the assignment serve in the civil service for a period equal to the length of the assignment; and

(c) Provide that if the employee of the DoD or of the private sector organization (as the case may be) fails to carry out the agreement, such employee shall be liable to the United States for payment of all expenses of the assignment, unless that failure was for good and sufficient reason as determined by the Secretary of Defense.

### § 241.6 Length of assignments.

(a) An assignment shall be for a period of not less than 3 months and not more than 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year by heads of DoD Components and private sector organizations.

(b) No assignment may commence after September 30, 2013, unless an individual began an assignment by September 30, 2013. This extension may be granted in 3-month increments not to exceed 1 year.

### § 241.7 Termination.

An assignment may, at any time and for any reason be terminated by the DoD or the private sector organization concerned.

### § 241.8 Terms and conditions.

(a) A DoD employee assigned under this part:

(1) Remains a Federal employee without loss of employee rights and benefits attached to that status. These include, but are not limited to:

(i) Consideration for promotion;

(ii) Leave accrual;

(iii) Continuation of retirement benefits and health, life, and long-term care insurance benefits; and

(iv) Pay increases the employee otherwise would have received if he or she had not been assigned;

(2) Remains covered for purposes of the Federal Tort Claims Act, and for purposes of injury compensation as described in 5 U.S.C. chapter 81; and

(3) Is subject to any action that may impact the employee's position while he or she is assigned.

(b) An employee of a private sector organization:

(1) May continue to receive pay and benefits from the private sector organization from which such employee is assigned;

(2) Is deemed to be an employee of the DoD for the purposes of:

(i) Chapter 73 of title 5, United States Code (Suitability, Security, and Conduct);

(ii) Sections 201 (Bribery of Public Officials and Witnesses), 203 (Compensation to Members of Congress, Officers and Employees Against and Other Matters Affecting the Government) 205, (Activities of Officers and Employees in Claims Against Other Matters Affecting the Government), 207 (Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches), 208 (Acts Affecting a Personal Financial Interest), 209 (Salary of Government Officials and Employees Payable only by the United States), 603 (Making Political Contributions), 606 (Intimidation to Secure Political Contributions), 607, (Place of Solicitation), 643 (Accounting Generally for Public Money), 654 (Officer or Employee of the United States Converting Property of Another, 1905 (Disclosure of Confidential Information Generally), and 1913 (Lobbying with Appropriated Moneys) of title 18, United States Code;

(iii) Sections 1343, 1344, and 1349 (b) of title 31, United States Code;

(iv) The Federal Tort Claims Act and any other Federal tort liability statute;

(v) The Ethics in Government Act of 1978;

(vi) Section 1043 of the Internal Revenue Code of 1986; and

(vii) Section 27 of the Office of Federal Procurement Policy Act; and

(3) May not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he or she is assigned;